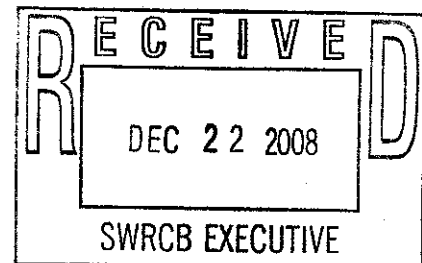




December 22, 2008

Jeanine Townsend, Clerk of the Board, Executive Office
State Water Resources Control Board
P. O. Box 100
Sacramento, CA 95812-0100



Subject: Comment Letter - Proposed Recycled Water Policy

The Santa Clara Valley Water District (District) commends the State Water Resources Control Board for their work on this policy and its willingness to work with stakeholders. The District believes that the proposed recycled water policy has been significantly improved through the stakeholder process. However, we believe that several key issues need to be resolved. Our general comments are presented below and detailed suggested policy edits are attached. Previous District comments dated March 7, 2008 are also attached for reference.

The District believes that recycled water use can be expanded while also protecting our existing sources of water.

The District strongly supports the State's Anti-degradation Policy which is essential to surface water and groundwater protection. The expansion of sources such as recycled water, desalination, and stormwater must be carefully balanced with the protection of existing high-quality resources. In Santa Clara County, as in most of the State, future demands will primarily be met with existing sources. Erosion of water quality of these sources will increase the demand for supplemental supply and exacerbate water supply challenges. To protect the quality of existing sources, we suggest the following:

- Any potential degradation of water resources should continue to be considered in the context of the Anti-degradation Policy, which requires a demonstration that any change in water quality is necessary for important economic or social development.
- Recycled water projects in recharge areas over high-quality, high-use aquifers should not be eligible for streamlined permitting.
- Any permit issued before a salt/nutrient management plan is in effect should demonstrate compliance with the anti-degradation policy over the lifetime of the project, not an arbitrary period (e.g., 10 years).

Local water management agencies must have input into the permitting process for projects in their jurisdiction with the potential to impact existing water supplies.

While the Regional Water Boards have the authority for permitting and oversight of water quality, local water management agencies also share the responsibility for protecting and



maintaining a reliable water supply. Local agencies generally have the most technical data and local experience necessary to evaluate potential impacts to water supplies. Prior to Regional Water Board approval of any anti-degradation analyses or permits, whether through the normal or streamlined process, local agencies responsible for water resources management should be consulted.

The statement that "The local water and wastewater entities, together with local salt/nutrient contributing stakeholders have agreed to fund" the plans is premature.

The District is unaware of any commitment by local entities or other stakeholders in Santa Clara County to fund salt management plans. As the groundwater management agency for Santa Clara County, the responsibility for preparing a regional salt and nutrient management plan would be placed on the District. No formal commitment has been asked for or given by the District at this time.

The Regional Water Boards should establish a clearly defined process in order to implement this policy.

The proposed policy shifts the burden for complying with State resource protection policy from the project proponents to the local groundwater management agencies through the salt management plan. However, the process for completing those plans is poorly defined. The Regional Water Boards should be required to establish a clear process and guidelines for completion of the salt and nutrient management plans, including those items that are the responsibility of the project proponents. The five-year deadline for local agencies to complete these plans should not start until the process and guidelines have been provided.

The State Board should clarify how the proposed policy relates to existing recycled water requirements.

The proposed policy provides direction regarding criteria to be used in issuing new permits for recycled water projects. However, the proposed policy should clarify how it relates to orders already issued by some Regional Water Boards related to water recycling requirements, master reclamation permits, and waste discharge requirements.

Stormwater should be removed from this policy and be addressed in its own policy.

The District agrees that the use of stormwater of sufficient quality can enhance the State's overall water supply; however, the District does not believe that it is appropriate to address stormwater in this recycled water policy. The inclusion of stormwater in a recycled water policy has likely denied some stormwater stakeholders an opportunity to provide comment. The District recommends that the State develop a separate stormwater policy in order to address water quality issues specific to stormwater and to encourage more complete and meaningful participation of all interested stakeholders.

This statewide policy should provide broad direction and allow flexibility for consideration of local conditions.

The District believes that statewide policies should provide broad guidance and be flexible so that local conditions can be taken into consideration. The state should not prescribe conditions

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that are not applicable in all regions. Examples of prescriptive measures in the policy of concern to the District include the following:

- In discussing the benefits of recycled water, the policy states: "Other public agencies are encouraged to use this presumption in evaluating the impacts of recycled water projects on the environment as required by CEQA." An objective CEQA analysis for a recycled water project must consider the level of treatment and site-specific conditions. While the project-specific CEQA analysis may indicate there are no significant environmental impacts, the state should not presume that this is true of every project.
- The policy recognizes that groundwater recharge reuse projects must be evaluated on a project-specific basis. While the District agrees that monitoring will be required for these projects, the state policy should not prescribe the monitoring parameters or frequency; instead these should be determined based on project-specific and site-specific conditions. Rather than prescribe specific conditions, the policy should focus on the overall objective and purposes of monitoring.
- Calculation of assimilative capacity for groundwater recharge reuse projects in the proposed policy requires evaluation of the most recent five years of data. Data availability and quality is highly variable by basin, and not all basins have sufficient data available to perform the required analysis. The policy should encourage use of the most recent data, but should allow flexibility to use older data or require that new data be collected in order to perform an adequate analysis.

The District believes that this proposed policy has improved significantly; however, the policy still does not adequately address the protection of our existing high-quality water resources. The changes the District suggests above and in the attached policy document balance the need for the increased use of sufficiently treated recycled water with the protection of our existing sources, recognize that local conditions do not allow for a "one size fits all" approach, and involve the local water management agencies.

Thank you for the opportunity to provide comments.

Sincerely,



James M. Fiedler
Chief Operating Officer – Water Utility Enterprise
Santa Clara Valley Water District

Attachments: Draft Recycled Water Policy with Suggested Revisions
March 7, 2008 District Comment Letter

cc: R. Kamei, O. Martin Steele, K. Whitman, B. Ahmadi, H. Ashktorab, P. John, G. Cook, V. De La Piedra

gc:mal

Recycled Water Policy

Preamble

California is facing an unprecedented water crisis.

The collapse of the Bay-Delta ecosystem, climate change and continuing population growth have combined with a severe drought on the Colorado River and failing levees in the Delta to create a new reality that challenges California's ability to provide the clean water needed for a healthy environment, a healthy population and a healthy economy, both now and in the future.

These challenges also present an unparalleled opportunity for California to move aggressively towards a sustainable water future. The State Water Resources Control Board (State Water Board) declares that we will achieve our mission to "preserve, enhance and restore the quality of California's water resources to the benefit of present and future generations." To achieve that mission, we support and encourage every region in California to maximize the use of recycled water while protecting our existing supply of surface and groundwater. In support of this mission, we encourage every region in California to develop a salt/nutrient management plan by 2014 that is sustainable on a long-term basis and that provides California with clean, abundant water that is sustainable on a long-term basis. These plans shall be consistent with the Department of Water Resources' Bulletin 160, as appropriate, and shall be locally developed, locally controlled and recognize the variability of California's water supplies and the diversity of its waterways. We strongly encourage local and regional water agencies to move toward clean, abundant, local water for California by emphasizing appropriate water recycling, water conservation, and maintenance of supply infrastructure and the use of stormwater (including dry-weather urban runoff) in these plans; these sources of supply are drought-proof, reliable, minimize our carbon footprint and can be sustained over the long-term.

We declare our independence from relying on the vagaries of annual precipitation and move towards sustainable management of surface waters and groundwater, together with enhanced water conservation, water reuse and the use of stormwater. To this end, we adopt the following goals for California:

- Increase the use of recycled water over 2002 levels by at least one million acre-feet by 2020 and by at least two million acre-feet by 2030.
- Increase the use of stormwater by at least 500,000 acre-feet over use in 2007 by 2020 and by at least one million acre-feet by 2030.
- Increase the amount of water conserved in urban and industrial uses by comparison to 2007 by at least 20% by 2020.
- Included in these goals is the substitution of as much recycled water for potable water as possible by 2030.

This Policy focuses on increasing the use of recycled water from municipal wastewater sources in a manner that implements state and federal water quality laws; the State Water Board expects to develop additional policies to encourage the use of stormwater, encourage water conservation, encourage the conjunctive use of surface and groundwater, and improve the use of local water supplies.

When used in compliance with this Policy, Title 22 and all applicable State and Federal water quality laws, the State Water Board finds that sufficiently treated recycled water is safe for approved uses, and strongly supports recycled water as a safe-alternative to potable water for such approved uses.

2. Purpose of the Policy

- a. The purpose of this Policy is to provide direction to the Regional Water Quality Control Boards (Regional Water Boards), proponents of recycled water projects, and the public regarding the appropriate criteria to be used by the State Water Board and the Regional Water Boards in issuing permits for recycled water projects.
- b. It is the intent of the State Water Board that all elements of this Policy are to be interpreted in a manner that fully implements state and federal water quality laws and regulations in order to protect and enhance the environment and put the waters of the State to the fullest use of which they are capable.
- c. This Policy describes permitting criteria that are intended to streamline the permitting of the ~~vast~~-majority of recycled water projects. The intent of this streamlined permit process is to expedite the implementation of recycled water projects in a manner that implements state and federal water quality laws while allowing the Regional Water Boards to focus their limited resources on projects that require substantial regulatory review due to ~~unique siteproject-~~specific conditions.
- d. By prescribing permitting criteria that apply to the ~~vast~~-majority of recycled water projects, it is the State Water Board's intent to maximize consistency in the ~~permitting of recycled water projects~~implementation of its policies in California while also reserving to the Regional Water Boards sufficient authority and flexibility to address ~~siteproject-~~specific conditions.
- e. The State Water Board will establish additional policies that are intended to assist the State of California in meeting the goals established in the preamble to this Policy for water conservation and the use of stormwater.
- f. For purposes of this Policy, the term "permit" means an order adopted by a Regional Water Board or the State Water Board prescribing requirements for a recycled water project, including but not limited to water recycling requirements, master reclamation permits and waste discharge requirements.

3. Benefits of Recycled Water

The State Board finds that the use of recycled water in accordance with this policy, that is, which supports the sustainable use of groundwater and/or surface water, which is sufficiently treated so as not to adversely impact public health or the environment and which ideally substitutes for use of potable water, is presumed to have a beneficial impact. ~~Other public agencies are encouraged to use this presumption in evaluating the impacts of recycled water projects on the environment as required by CEQA.~~

4. Mandate for the Use of Recycled Water

a. The State Water Board and Regional Water Boards will exercise the authority granted to them by the Legislature to the fullest extent possible to encourage the use of recycled water, consistent with state and federal water quality laws.

- 1) The State Water Board hereby establishes a mandate to increase the use of recycled water in California by 200,000 afy by 2020 and by an additional 300,000 afy by 2030. These mandates shall be achieved through the cooperation and collaboration of the State Water Board, the Regional Water Boards, the environmental community, water purveyors, local water management agencies, and the operators of publicly owned treatment works in a manner that is protective of existing surface water and groundwater supplies. The State Water Board will evaluate progress toward these mandates biennially and review and revise as necessary the implementation provisions of this Policy in 2012 and 2016.
 - 2) Agencies producing recycled water that is available for reuse and not being put to beneficial use shall make that recycled water available to water purveyors for reuse on reasonable terms and conditions. ~~Such terms and conditions may include payment by the water purveyor of a fair and reasonable share of the cost of the recycled water supply and facilities.~~
 - 3) The State Water Board hereby declares that, pursuant to Water Code sections 13550 *et seq.*, it is a waste and unreasonable use of water for water agencies not to use recycled water when recycled water of adequate quality is available and is not being put to beneficial use, subject to the conditions established in sections 13550 *et seq.* The State Water Board shall exercise its authority pursuant to Water Code section 275 to the fullest extent possible to enforce the mandates of this subparagraph.
- b. These mandates assume that there will be sufficient capital funding for the construction of recycled water projects from private, local, state and federal sources and that the Regional Water Boards will effectively implement regulatory streamlining in accordance with this Policy.
- c. The water industry and the environmental community have agreed, as reflected in the letter attached to the Resolution adopting this Policy, jointly to advocate for

\$1 billion in state and federal funds over the next 5 years to fund projects needed to meet the goals and mandates for the use of recycled water established in this Policy.

- d. The State Water Board requests the California Department of Public Health (CDPH), the California Public Utilities Commission (CPUC) and the California Department of Water Resources (CDWR) to use their respective authorities to the fullest extent practicable to assist the State Water Board and the Regional Water Boards in increasing the use of recycled water in California.

5. Roles of the SWRCB, Regional Water Boards, CDPH, and CDWR, Local Agencies, and Project Proponents

The State Water Board recognizes that it shares jurisdiction over the use of recycled water with the Regional Water Boards, ~~and with CDPH, and local agencies~~. In addition, the State Water Board recognizes that CDWR and the CPUC have important roles to play in encouraging the use of recycled water. The State Water Board believes that it is important to clarify the respective roles of each of these agencies in connection with recycled water projects, as follows:

- a. The State Water Board establishes general policies governing the permitting of recycled water projects consistent with its role of protecting water quality and sustaining water supplies. The State Water Board exercises general oversight over recycled water projects, including review of Regional Water Board permitting practices, and shall lead the effort to meet the recycled water use goals set forth in the Preamble to this Policy. The State Water Board is also charged by statute with developing a general permit for irrigation uses of recycled water.
- b. The CDPH is charged with protection of public health and drinking water supplies and with the development of uniform water recycling criteria appropriate to particular uses of water. Regional Water Boards shall appropriately rely on the expertise of CDPH for the establishment of permit conditions needed to protect human health.
- c. The Regional Water Boards are charged with protection of surface and groundwater resources and with the issuance of permits that implement CDPH recommendations, this Policy and applicable law and will, pursuant to paragraph 4 of this Policy, use their authority to the fullest extent possible to encourage the use of sufficiently treated recycled water in a manner that is protective of surface water and groundwater.
- d. CDWR is charged with reviewing and, every five years, updating the California Water Plan, including evaluating the quantity of recycled water presently being used and planning for the potential for future uses of recycled water. In undertaking these tasks, CDWR may appropriately rely on urban water management plans and may share the data from those plans with the State Water Board and the Regional Water Boards. CDWR also shares with the State Water Board the authority to allocate and distribute bond funding, which can provide incentives for the use of recycled water.
- e. The CPUC is charged with approving rates and terms of service for the use of recycled water by investor-owned utilities.

- f. Local Agencies, such as the including groundwater management agencies and other water management agencies, have theare responsibility for protecting and maintaining a reliable water supply for their communities.

e.g. Project proponents are responsible for compiling project-specific data in consultation with local water management agencies to determine compliance with streamlined permitting criteria, complying with requirements established by the Regional Water Boards and CDPH, including associated monitoring and/or reporting, and for assisting with the development of salt and nutrient management plans as appropriate.

6. *Salt/Nutrient Management Plans*

a. *Introduction.*

- 1) Some groundwater basins in the State contain salts and nutrients that exceed or threaten to exceed water quality objectives established in the applicable Water Quality Control Plans (Basin Plans), and not all Basin Plans include adequate implementation procedures for achieving or ensuring compliance with the water quality objectives for salt or nutrients. These conditions can be caused by natural soils/conditions, discharges of waste, irrigation using surface water, groundwater or recycled water and water supply augmentation using surface or recycled water. Regulation of recycled water alone will not address these conditions.
- 2) It is the intent of this Policy that salts and nutrients from all sources be managed on a basin-wide or watershed-wide basis in a manner that ensures attainment of water quality objectives and protection of beneficial uses. The State Water Board finds that the appropriate way to address salt and nutrient issues is through the development of regional or subregional salt and nutrient management plans rather than through imposing requirements solely on individual recycled water projects.

b. *Adoption of Salt/ Nutrient Management Plans.*

- (1) ~~The local water and wastewater entities, together with local salt/nutrient contributing stakeholders have agreed to fund (see letter dated _____ attached to the Resolution adopting this Policy) a locally driven and controlled, collaborative processes open to all stakeholders that will be used to prepare salt and nutrient management plans for each basin/-sub-basin in California, including compliance with CEQA including and participation by Regional Water Board staff.~~
- (a) It is the intent of this Policy for every groundwater basin/sub-basin in California to have a ~~consistent~~ salt/nutrient management plan. The degree of specificity within these plans and the length of these plans will be dependent on a variety of ~~site~~project-specific factors, including but not limited to size and complexity of a basin, source water quality, stormwater recharge, hydrogeology, and aquifer water quality. ~~It is also the intent of the State Water Board that because stormwater is typically lower in nutrients and salts and can augment local water supplies, inclusion of a significant stormwater use and recharge component within the salt/nutrient management plans is critical to the long-term sustainable use of water in California. Inclusion of stormwater recharge is consistent with~~

~~State Water Board Resolution 2005-06, which establishes sustainability as a core value for State Water Board programs and also assists in implementing Resolution 2008-30, which requires sustainable water resources management and is consistent with Objective 3.2 of the State Water Board Strategic Plan Update dated September 2, 2008.~~

- (b) Salt and nutrient plans shall be tailored to address the water quality concerns in each basin-/sub-basin and may include constituents other than salt and nutrients that impact water quality in the basin-/sub-basin. Such plans shall address and implement provisions, as appropriate, for all sources of salt and/or nutrients to groundwater basins, including recycled water irrigation projects and groundwater recharge reuse projects.
 - (c) Such plans ~~may shall~~ be developed ~~or funded by the local groundwater management agency~~ pursuant to the provisions of Water Code sections 10750 *et seq.* or other appropriate groundwater management authority pursuant to other provisions of law or a court order. If such an agency does not exist, the plan shall be developed by the Regional Water Board.
 - (d) Salt and nutrient plans shall be completed and proposed to the Regional Water Board within five years from the date of this Policy unless a Regional Water Board finds that the stakeholders are making substantial progress towards completion of a plan. In no case shall the period for the completion of a plan exceed seven years.
 - (e) The requirements of this paragraph shall not apply to areas that have already completed a Regional Water Board approved salt and nutrient plan for a basin, sub-basin or other regional planning area that is functionally equivalent to section 6(b)3.
 - (f) The Plans may, depending upon the local situation, address constituents other than salt and nutrients that adversely affect the groundwater quality.
- (2) Within one year of the receipt of a proposed salt and nutrient management plan, the Regional Water Boards shall consider for adoption revised implementation plans, consistent with Water Code section 13242, ~~for those groundwater basins within their regions where water quality objectives for salts or nutrients are being, or are threatening to be, exceeded.~~ The implementation plans shall be based on the salt and nutrient plans required by this Policy.
- (3) Each salt and nutrient management plan shall include the following components:
- (a) A basin-/sub-basin wide monitoring plan that includes an appropriate network of monitoring locations. The scale of the basin

/sub-basin monitoring plan is dependent upon the ~~site~~project-specific conditions and shall be adequate to provide a reasonable, cost-effective means of determining whether the concentrations of salt, nutrients and other constituents of concern as identified in the salt and nutrient plans are consistent with applicable water quality objectives. ~~Salts, nutrients and the constituents identified in paragraph 6(b)(1)(f) above shall be monitored.~~ The monitoring parameters and frequency of monitoring shall be determined in the salt/nutrient management plan and approved by the Regional Board pursuant to paragraph 6(b)(2) above.

- (i) The monitoring plan must be designed to determine water quality in the basin. The plan must focus on basin water quality near water supply wells, recharge areas, and areas proximate to large salt and nutrient sources, including water recycling projects, particularly groundwater recharge projects. Also, monitoring locations shall, where appropriate, target groundwater and surface waters where groundwater has connectivity with adjacent surface waters.
 - ~~(ii)~~ — The ~~preferred approach to monitoring plan development is to collect samples from existing wells if feasible as long as the existing wells are located appropriately to determine water quality throughout the most critical areas of the basin.~~
 - ~~(iii)~~(ii) The monitoring plan shall identify those stakeholders responsible for conducting, compiling, and reporting the monitoring data. The data shall be reported to the Regional Water Board~~local groundwater management agency~~ and to the Regional Water Board on the frequency determined in the plan, but will be reported at least every three years.
- (b) A provision for annual monitoring of UCMRs, Emerging Constituents/Constituents of Emerging Concern (e.g., endocrine disruptors, personal care products or pharmaceuticals) (CECs) consistent with recommendations by CDPH and considering the recommendations of the expert panel.
 - (c) Water recycling ~~and stormwater recharge/use~~ goals and objectives.
 - (d) Salt and nutrient source identification, basin / sub-basin assimilative capacity and loading estimates, together with fate and transport of salts and nutrients.
 - (e) Implementation measures to manage salt and nutrient loading in the basin on a sustainable basis.
 - (f) An antidegradation analysis demonstrating that the projects included within the plan will, collectively, satisfy the requirements of Resolution 68-16. Only those projects that can satisfy the requirements of the antidegradation analysis can be included within the plan.

- (4) Nothing in this Policy shall prevent stakeholders from developing a plan that is more protective of water quality than applicable standards in the Basin Plan. No Regional Water Board, however, shall seek to modify Basin Plan objectives without full compliance with the process for such modification as established by existing law.

7. Landscape Irrigation Projects

- a. *Control of incidental runoff.* Incidental runoff is defined as unintended small amounts (volume) of runoff from recycled water use areas, such as unintended, minimal over-spray from sprinklers that escapes the recycled water use area. Water leaving a recycled water use area is not considered incidental if it is part of the facility design, if it is due to excessive application, if it is due to intentional overflow or application, or if it is due to negligence. Incidental runoff may be regulated by waste discharge requirements or, where necessary, waste discharge requirements that serve as a National Pollutant Discharge Elimination System (NPDES) permit, including municipal separate storm water system permits, but regardless of the regulatory instrument, the project shall include, but is not limited to, the following practices:
- (1) Implementation of operations and management plan that provides for detection of leaks, (for example, from broken sprinkler heads), and correction either within 72 hours of learning of the runoff, or prior to the release of 1,000 gallons,
 - (2) Proper design and aim of sprinkler heads,
 - (3) Refraining from application during precipitation events
 - (4) ~~Management of any ponds such that no discharge occurs unless the discharge is a result of a 25-year, 24-hour storm event or greater, and there is prior approval for the discharge by the appropriate Executive Officer.~~
- b. *Streamlined Permitting*
- (1) The Regional Water Boards shall determine whether a proposed, absent unusual circumstances (i.e., unique, site-specific conditions such as where recycled water is proposed to be used for irrigation over the recharge area of a high transmissivity soils over shallow (5' or less) use high quality groundwater aquifer), permit recycled water projects that meets the criteria set forth in this Policy for streamlined permitting, consistent with the provisions of this paragraph, after public notice and hearing.
 - (2) If the Regional Water Board determines that unusual circumstances apply (i.e., ~~site~~project-specific conditions such as where recycled water is proposed to be used for irrigation over the recharge area of a high-use, high-quality groundwater aquifer), the Regional Water Board shall make a finding of that unusual circumstances apply based on substantial evidence in the record, after public notice and hearing and that the project is ineligible for streamlined permitting.

- (3) Projects meeting the criteria set forth below and not eligible for enrollment under requirements established in a general order shall be considered for adoption by the Regional Water Board within 90 days from the date on which an application is deemed complete by the Regional Water Board. Projects meeting the criteria set forth below and eligible for enrollment under requirements established in a general order shall be enrolled by the State or Regional Water Board within 60 days from the date on which an application is deemed complete by the State or Regional Water Board.
 - (4) Landscape irrigation projects that qualify for streamlined permitting shall not be required to include a project specific receiving water and groundwater monitoring component unless such project specific monitoring is required under the adopted salt/nutrient management plan. During the interim while the salt management plan is under development, a landscape irrigation project proponent can either perform project specific monitoring, ~~or~~ and actively participate in the development and implementation of a salt/nutrient management plan, including basin/-sub-basin monitoring. Landscape irrigation projects shall include, in addition to any other appropriate effluent monitoring requirements, effluent monitoring for CECs on an annual basis and priority pollutants on a twice annual basis.
 - (5) It is the intent of the State Water Board that the general permit for landscape irrigation projects be consistent with the terms of this Policy.
- c. *Criteria for streamlined permitting.* Irrigation projects using sufficiently treated recycled water that meet the following criteria are eligible for streamlined permitting, and, if otherwise in compliance with applicable laws, shall be approved absent extraordinary-unusual circumstances:
- (1) Compliance with the requirements for recycled water established in Title 22 of the California Code of Regulations, including the requirements for treatment and use area restrictions, together with any other recommendations by CDPH.
 - (2) Application in amounts and at rates as needed for the landscape (i.e., at agronomic rates and not when the soil is saturated). Each irrigation project shall be subject to an enforceable operations and management plan provided to the Regional Water Board that specifies the agronomic rate(s) and describes a set of reasonably practicable measures to ensure compliance with this requirement, which may include the development of water budgets for use areas, site supervisor training, periodic inspections, tiered rate structures, the use of smart controllers, or other appropriate measures.
 - (3) Compliance with any applicable salt and nutrient management plan.

- (4) Appropriate use of fertilizers that takes into account the nutrient levels in the recycled water. Recycled water producers shall monitor and communicate to the users the nutrient levels in their recycled water.

8. *Recycled Water Groundwater Recharge Projects*

- a. The State Water Board acknowledges that all recycled water groundwater recharge projects must be reviewed and permitted on a ~~site~~project-specific basis, and so such projects will require project-by-project review.
- b. Approved groundwater recharge projects will meet the following criteria:
- (1) Compliance with regulations adopted by CDPH for groundwater recharge projects or, in the interim until such regulations are approved, CDPH's recommendations for the project (e.g., level of treatment, retention time, setback distance, source control, monitoring program, etc.).
- (1)
- Implementation of a monitoring program for constituents of concern and ~~a monitoring program for CECs~~ that is consistent with CDPH recommendations and the most recent recommendations available from the expert panel created pursuant to paragraph 10(b) of this Policy and that takes into account siteproject-specific conditions. Groundwater recharge projects shall include effluent monitoring for CECs on an annual basis and priority pollutants on a twice annual basis in recycled water. The monitoring parameters and frequency shall be established ~~set for in the permit and be based on project-specific conditions.~~
- (2)
- c. Nothing in this paragraph shall be construed to limit the authority of a Regional Water Board to protect designated beneficial uses, *provided* that any proposed limitations for the protection of public health may only be imposed following regular consultation by the Regional Water Board with CDPH, consistent with State Water Board Orders WQ 2005-0007 and 2006-0001.
- d. Nothing in this Policy shall be construed to prevent a Regional Water Board from imposing additional requirements for a proposed recharge project that has a substantial adverse effect on the fate and transport of a contaminant plume, ~~or changes the geochemistry of an aquifer thereby causing the dissolution of constituents, such as arsenic, from the geologic formation into groundwater, or otherwise adversely impacts on the groundwater basin/sub-basin thereby limiting its beneficial use.~~
- e. Projects that utilize reverse osmosis and advanced oxidation for surface spreading shall be permitted by a Regional Water Board within one year of receipt of recommendations from CDPH. Furthermore, CDPH and the Regional Board will prioritize review and approval of such projects.

9. *Antidegradation*

- a. The State Water Board adopted Resolution No. 68-16 as a policy statement to implement the Legislature's intent that waters of the State shall be regulated to

achieve the highest water quality consistent with the maximum benefit to the people of the State.

- b. Activities involving the disposal of waste that could impact high quality waters are required to implement best practicable treatment or control of the discharge necessary to ensure that pollution or nuisance will not occur, and the highest water quality consistent with the maximum benefit to the people of the State will be maintained.
- c. Groundwater recharge with sufficiently treated recycled water for later extraction and use in accordance with this Policy and state and federal water quality law is to the benefit of the people of the state of California. Nonetheless, the State Water Board finds that groundwater recharge projects using recycled water have the potential to lower water quality within a basin. The proponent of a groundwater recharge project must demonstrate compliance with Resolution No. 68-16. Until such time as a salt/nutrient management plan is in effect, such compliance may be demonstrated as follows:
 - (1) A project that utilizes less than 10 % of the available assimilative capacity in a basin / sub-basin (or multiple projects utilizing less than 20% of the available assimilative capacity in a basin / sub-basin) need only conduct an antidegradation analysis verifying the use of the assimilative capacity with approval by the Regional Water Board. The Regional Water Board shall consult the local water management agency prior to approving the anti-degradation analysis. For those basins/-sub-basins where the Regional Water Boards have not determined the baseline assimilative capacity, the baseline assimilative capacity shall be calculated by the initial project proponent, with review and approval by the Regional Water Board and local water management agency, until such time as the salt / nutrient plan is approved by the Regional Water Board and is in effect. For compliance with this subparagraph, the available assimilative capacity shall be calculated by the project proponent using a method approved by the Regional Water Board ~~comparing the mineral water quality objective with the average concentration of the basin / sub-basin over the most recent five years of data available.~~ In determining whether the available assimilative capacity will be exceeded by the project or projects, the Regional Water Board shall calculate the impacts of the project or projects over the lifetime of the project or project ~~over a ten-year time frame.~~
 - (2) In the event a project or multiple projects utilize more than the fraction of the assimilative capacity designated in subparagraph (1), then a Regional Water Board-deemed acceptable antidegradation analysis shall be performed to comply with Resolution 68-16. The project proponent shall provide this analysis with sufficient information for the Regional Water Board to make this determination's approval. The Regional Water Board shall consult the local groundwater management agency prior to approving the anti-degradation analysis. An example of an approved method is the method used by the State Water Board in connection with Resolution No. 2004-0060 and the Regional Water Board in connection with Resolution No. R8-2004-0001. An integrated approach (using surface water, groundwater, recycled water, stormwater, pollution prevention, water conservation, etc.) to the implementation of Resolution 68-16 is encouraged.

d. Landscape irrigation with sufficiently treated recycled water in accordance with this Policy is to the benefit of the people of the state of California. Nonetheless, the State Water Board finds that the use of water for irrigation may, regardless of its source, collectively affect groundwater quality over time. The State Water Board intends to address these impacts in part through the development of salt/nutrient management plans described in paragraph 6 above.

(1) A project that meets the criteria for a streamlined irrigation permit and is within a basin where a salt/nutrient management plan satisfying the provisions of paragraph 6(b) above is in place may be approved without further antidegradation analysis, provided that the project is consistent with that plan.

(2) A project that meets the criteria for a streamlined irrigation permit and is within a basin where a salt/nutrient management satisfying the provisions of paragraph 6(b) above is being prepared may be approved by the Regional Water Board by demonstrating through a salt / nutrient mass balance or similar analysis that the project uses less than 10% of the available assimilative capacity as estimated by the project proponent in a basin / sub-basin (or multiple projects using less than 20% of the available assimilative capacity as estimated by the project proponent in a groundwater basin). The Regional Water Board shall consult the local groundwater management agency prior to approving the anti-degradation analysis.

10. *Emerging Constituents/Chemicals of Emerging Concern* 451

a. *General Provisions*

(1) Regulatory requirements for recycled water shall be based on the best available peer-reviewed science. In addition, all uses of recycled water must meet conditions set by CDPH and the Regional Water Board.

(2) Knowledge of risks will change over time and recycled water projects must meet applicable criteria. However, when standards change, projects should be allowed time to comply through a compliance schedule.

(3) The state of knowledge regarding CECs is incomplete. There needs to be additional research and development of analytical methods and surrogates to determine potential environmental and public health impacts. Agencies should minimize the likelihood of CECs impacting human health and the environment by means of source control and/or pollution prevention programs.

(4) Regulating most CECs will require significant work to develop test methods and more specific determinations as to how and at what level CECs impact public health or our environment.

b. *Research Program.* The State Water Board, in consultation with CDPH and within 90 days of the adoption of this Policy, shall convene a "blue-ribbon" advisory panel to guide future actions relating to constituents of emerging concern.

(1) The panel shall be actively managed by the State Water Board and shall be composed of at least the following: one human health toxicologist, one environmental toxicologist, one epidemiologist, one biochemist, one civil engineer familiar with the design and construction of recycled water treatment facilities, one civil engineer or hydrogeologist experienced with fate and transport of chemicals in the environment, and one chemist familiar with the design and operation of advanced laboratory methods for the detection of emerging constituents. Each of these panelists shall have extensive experience as a principal investigator in their respective areas of expertise. The panelists should not be associated with any projects that may be affected by the panel's recommendations.

(2) The panel shall review the scientific literature and, within one year from its appointment, shall submit a report to the State Water Board and CDPH describing the current state of scientific knowledge regarding the risks of emerging constituents to public health and the environment. Within six months of receipt of the panel's report the State Water Board, in coordination with CDPH, shall hold a public hearing to consider recommendations from staff and shall endorse the recommendations after making any necessary modifications. The panel or a similarly constituted panel shall update this report every five years.

(3) Each report shall recommend actions that the State of California should take to improve ~~our~~ the understanding of emerging constituents and, as may be appropriate, to protect public health and the environment.

(4) The panel report shall answer the following questions: What are the appropriate constituents to be monitored in recycled water, including analytical methods and method detection limits? What is the known toxicological information for the above constituents? Would the above lists change based on level of treatment and use? If so, how? What are possible indicators that represent a suite of CECs? What levels of CECs should trigger enhanced monitoring of CECs in recycled water, groundwater and/or surface waters?

c. *Permit Provisions.* Permits for recycled water projects shall be consistent both with any CDPH recommendations to protect public health and the environment, including and with any actions by the State Water Board taken pursuant to section 10(b)(2).

11. *Incentives for the Use of Recycled Water*

a. *Funding*

The State Water Board will request CDWR to provide funding (\$20M) for the development of salt and nutrient management plans during the next three years (i.e., before FY 2010/2011). The State Water Board will also request CDWR to provide

priority funding for projects that have major recycling components; particularly those that decrease demand on potable water supplies. ~~The State Water Board will also request priority funding for stormwater recharge projects that augment local water supplies.~~ The State Water Board shall promote the use of the SRF for water purveyor, ~~stormwater agencies~~ and water recyclers to use for water reuse and ~~stormwater use and recharge projects.~~

~~b. Stormwater~~

~~The State Water Board strongly encourages all water purveyors to provide financial incentives for water recycling and stormwater recharge and reuse projects. The State Water Board also encourages the Regional Water Boards to require less stringent monitoring and regulatory requirements for stormwater treatment and use projects than for projects involving untreated stormwater discharges.~~

~~c. TMDLs~~

~~Water recycling reduces mass loadings from POTWs to impaired waters. As such waste, load allocations shall be assigned as appropriate by the Regional Water Boards in a manner that provides an incentive for greater water recycling.~~



March 7, 2008

Jeanine Townsend, Acting Clerk of the Board
State Water Resources Control Board
1001 I Street, 24th Floor
Sacramento, CA 95814

Subject: Comment Letter - Proposed Recycled Water Policy

The Santa Clara Valley Water District (District) submitted the attached comment letter dated October 25, 2007 stating our concerns over the proposed policy, which limits the flexibility of Regional Boards and local agencies to consider local needs and conditions. The District believes the proposed revisions have further eroded the ability to balance groundwater protection and expanded recycled water use. Therefore, the District cannot support the proposed recycled water policy in its current form.

The importance of groundwater in Santa Clara County cannot be understated. Nearly half of the water used in the county comes from groundwater, and in the southern portion of the county, it is the sole drinking water supply source. As the local groundwater management agency, the District is charged with protecting groundwater quality in our basins. The District also supports and advocates the expanded use of recycled water to supplement our water supply. The District's commitment to balancing these objectives is demonstrated by the following Ends Policies adopted by the District Board of Directors:

- Ends Policy 2.1.6: The groundwater basins are aggressively protected from contamination and the threat of contamination.
- Ends Policy 2.1.7: Water recycling is expanded within Santa Clara County in partnership with the community, consistent with the District's Integrated Water Resources Plan (IWRP), reflecting its comparative cost assessments and other Board policies.
 - o E-2.1.7.1 Target 2010, water recycling accounts for five percent of total water use in Santa Clara County.
 - o E-2.1.7.2 Target 2020, water recycling accounts for ten percent of total water use in Santa Clara County.

The District fully supports the State's anti-degradation policy and recognizes that sometimes, it is in the best interest of the people of the State to allow degradation to occur. However, the proposed policy is too broad in its application of the anti-degradation policy. It does not recognize that, in some geographic areas, the maximum benefit to people of the State is not achieved by allowing degradation up to the MCL or water quality objective. Santa Clara County relies on and benefits from the existing high quality water in our groundwater basins. Until there is a greater benefit from allowing degradation, the District is committed to working with our recycled water partners to expand recycled water use in a manner that protects and sustains our groundwater resources. Sweeping statements in the proposed policy such as "any lowering of water quality will be consistent with maximum benefit to the people of the State" seem to

Ms. Jeanine Townsend

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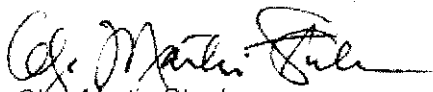
March 7, 2008

allow groundwater degradation as a foregone and acceptable conclusion. Due to our charge to aggressively protect groundwater quality, this is not acceptable to the District.

To develop a policy that balances the need for groundwater protection with the need to expand recycled water, the District recommends that a series of regional stakeholder meetings be scheduled where all parties can discuss their concerns and attempt to reach a consensus. The District strongly believes that the expanded use of recycled water can be achieved without sacrificing groundwater protection, but the current process for developing a state-wide recycled water policy is not meeting this critical need.

Thank you for the opportunity to provide comments.

Sincerely,



Olga Martin Steele
Chief Executive Officer
Santa Clara Valley Water District

Attachment: October 25, 2007 Comment Letter

cc: R. Kamei, G. Zlotnick, K. Whitman, B. Ahmadi, H. Ashktorab, P. John, G. Cook

gc:mal

October 25, 2007

Jeanine Townsend, Acting Clerk of the Board
State Water Resources Control Board
1001 I Street, 24th Floor
Sacramento, CA 95814

Subject: Comment Letter – Proposed Water Recycling Policy

Thank you for the opportunity to provide comments on the Public Review Draft of Proposed Water Recycling Policy prepared by the California State Water Resources Control Board Division of Water Quality. The Santa Clara Valley Water District (SCVWD) offers the following comments for your consideration:

Santa Clara Valley Water District Interests

The Santa Clara Valley Water District serves the nearly 1.8 million residents of Santa Clara County. Ensuring a safe, reliable supply of high-quality water now and in the future is a top priority for the SCVWD. Our core business includes management of groundwater resources, flood protection and stream stewardship, and wholesale water supply. SCVWD objectives include both promoting recycling and protecting groundwater resources, as is evident by the following SCVWD Board of Directors Ends Policies:

- E-2.1.6. The groundwater basins are aggressively protected from contamination and the threat of contamination.
- E-2.1.7. Water recycling is expanded within Santa Clara County in partnership with the community, consistent with the District's Integrated Water Resources Plan (IWRP), reflecting its comparative cost assessments and other Board Policies.
 - E-2.1.7.1 Target 2010, water recycling accounts for five percent of total water use in Santa Clara County.
 - E-2.1.7.2 Target 2020, water recycling accounts for ten percent of total water use in Santa Clara County.

To be able to meet the needs of the community, the SCVWD looks for flexible and adaptive ways to balance competing objectives. In this way, the SCVWD is quite familiar with the challenges that face State Board as it considers the complex water needs of the State of California.

Water Board Interests

The fundamental precept of California's approach to water is balancing competing objectives to maximize the beneficial uses of the resource for present and future generations, taking into consideration the local needs and challenges.

As stated in Water Code Section 13000:

The Legislature finds and declares that the people of the state have a primary interest in the conservation, control, and utilization of the water resources of the state, and that the quality of all the waters of the state shall be protected for use and enjoyment by the people of the state. The Legislature further finds and declares that activities and factors which may affect the quality of the waters of the state shall be regulated to attain the

Comment Letter - Proposed Water Recycling Policy
Continued:

highest water quality which is reasonable, considering all demands being made and to be made on those waters and the total values involved, beneficial and detrimental, economic and social, tangible and intangible.

This approach is reflected in the mission statements of both the State Board and the Regional Boards:

The State Board's mission is to preserve, enhance and restore the quality of California's water resources, and ensure their proper allocation and efficient use for the benefit of present and future generations.

The mission of the Regional Boards is to develop and enforce water quality objectives and implementation plans that will best protect the State's waters, recognizing local differences in climate, topography, geology, and hydrology.

This local management approach is further highlighted in State law when it comes to managing groundwater resources, as is evidenced by Water Code Section 10750:

The Legislature finds and declares that groundwater is a valuable natural resource in California, and should be managed to ensure both its safe production and its quality. It is the intent of the Legislature to encourage local agencies to work cooperatively to manage groundwater resources within their jurisdictions.

Proposed Water Recycling Policy is Contrary to SCVWD Interests

As a local groundwater management agency and water supply agency, the SCVWD supports the flexibility of existing State Policy in allowing for water resources protection and the beneficial uses of water, including water reuse. This draft Water Recycling Policy fundamentally compromises this balancing approach and reduces the Regional Board's ability to consider local needs and local conditions in its decisions. Achieving the balance between water resource protection and recycled water expansion is best done based on local conditions and needs, in consultation with local water supply and groundwater management agencies and consistent with groundwater management plans. Statewide laws, policies, and regulations should not restrict a local water district or groundwater management agency's ability to implement projects that best meet their area's water management needs. Likewise, statewide standards should not compel local agencies to consider or implement projects that do not meet local needs and interests, or are inconsistent with local groundwater management plans. This policy restricts the ability of local agencies to work with the appropriate Regional Board to find the optimal solution for their region, including maximizing appropriate water reuse.

The notice of the workshop states that

The purpose of a statewide policy would be to provide direction to the Regional Water Quality Boards on how to interpret state statutes, regulations, plans, and policies with respect to water recycling projects, thus ensuring consistent interpretation of the requirements among the Regional Water Boards.

The SCVWD supports this stated purpose, which is not inconsistent with the principle that Basin Plans and other specific programs within different Regions will be different as a result of differing competing objectives and challenges in each locality. Unfortunately, in trying to gain more consistent application of the State's mandated water balancing obligations under anti-degradation, this draft policy replaces it with inflexible criteria that disregard local conditions.

Comment Letter - Proposed Water Recycling Policy
Continued:

The SCVWD feels that it is in its best interest, and in the best interest of the Water Board, to promote water reuse flexibility. Consider as an example the situation in Santa Clara County, the SCVWD service area. The SCVWD actively promotes appropriate recycled water use in keeping with SCVWD policies, in partnership with the four local recycled water producers. Expanding expanded recycled use is promoted in areas where geologic conditions, such as protective clay layers and adequate separation to groundwater, protect our high-quality groundwater. In some smaller areas of the County like the Coyote Valley, where separation to groundwater is minimal and the soil conditions are not protective, the SCVWD works with the local recycled water provider to improve recycled water quality to protect this aquifer, which is the sole source for drinking water in the area. The 300 mg/l criterion in this draft Policy may be problematic for the SCVWD in both cases: in areas where the SCVWD is striving to increase recycled water use, the 300 mg/l criterion may prove to restrict reuse; in areas with high vulnerability, it may not be sufficiently protective. The SCVWD is confident that the best solution for current customers and for future generations that will depend on our water supplies is to allow us to have the flexibility to work with our Regional Boards, our recycled water providers, and our water retailers in developing the right water supply of the right quality in the right places.

Attached are SCVWD's specific comments. If you have any questions regarding these comments, please do not hesitate to call me at 408-265-2607, extension 2080.

Sincerely,



Keith Whitman
Water Supply Manager

cc: Behzad Ahmadi
Hossein Ashktorab
Pam John
Barbara Judd
Walt Wadlow
Keith Whitman
Stan Williams
Greg Zlotnick

Comment Letter - Proposed Water Recycling Policy
Continued:

The major provisions of this Proposed Policy are summarized below:

Proposed Policy Provisions	Compatibility with Local Considerations and Regional Board Mission
The proposed policy includes provisions for recycled water irrigation use and for water reuse for groundwater recharge.	The policy is confusing in several places where it is unclear if the provision applies to recycled water for irrigation, recycled water for groundwater recharge, or both. The policy should either remove the reuse for recharge aspects or clearly separate the policy into two separate sections.
For irrigation projects, implementation of a nutrient management plan, compliance with Title 22 recycling criteria, requirements that the recycled water application rate not exceed that needed for the landscape (including leaching and irregularities in the distribution system uniformity) are to be considered adequate management, as long as the monthly average TDS concentration in the recycled water not exceed that of the source water supply plus 300 mg/l. The source water supply is that of the public water supply for the service area that generates the sewage.	Whereas #4 states that some variation is desirable throughout the state because of differing climatic and hydrologic conditions. This approach does not consider local differences in climate, topography, geology, and hydrology, as required by the Regional Board's mission and the Porter-Cologne Act. This policy should be modified to also recognize differing geologic conditions and groundwater protection needs as well as differing needs for additional dependable drought-proof sources of water supply to support agriculture, industry, and population changes. In some situations, these criteria are too restrictive to allow best use of recycled water, while in other situations these criteria don't allow adequate water resource protection.
Other than those measures listed above, Regional Boards can not require for any recycled irrigation project any other salt management measures prior to 1/1/2018.	This provision removes the ability of the Regional Boards to address salt loading issues that may arise for over ten years. Regional Boards are responsible for protecting the waters of the state.

Comment Letter - Proposed Water Recycling Policy
Continued:

Proposed Policy Provisions	Compatibility with Local Considerations and Regional Board Mission
<p>Whereas #13 states as a fact that "it is usually unreasonable to require groundwater monitoring for irrigation projects using recycled water". The policy also states that Regional Boards can not require groundwater monitoring for recycled water irrigation projects unless "it determines that site conditions such as shallow groundwater could cause an increased potential for the irrigated site to adversely affect public health or surface water quality"</p>	<p>This appears to put a burden of proof on the regional board that an irrigation project will harm public health before they can ask for monitoring.</p> <p>Depending on site conditions and the quality of the recycled water, groundwater quality can be impacted. Although in many cases groundwater monitoring may be unnecessary, it is overstating the case to state that the effectiveness of groundwater monitoring is limited, especially for dissolved constituents like nitrates and other salts.</p> <p>Further, this provision limits consideration to adversely impacting health; degrading a groundwater basin doesn't appear to be sufficient cause. The Regional Board should also require groundwater monitoring if it believes the project may adversely impact groundwater quality.</p> <p>Lastly, this provision misrepresents the purpose of monitoring, which is to gather information, determine impacts, and implement adaptive management.</p> <p>Without monitoring, how does a project confirm that no adverse impacts are occurring?</p> <p>Adaptive programs that provide appropriate monitoring need not be onerous burdens.</p>
<p>For groundwater reuse projects, the "Board shall establish the effluent limitation at a concentration equivalent to the MCL". The only exception in the Policy is if some other beneficial use needs to be protected: "...Board may establish a limitation that is more stringent than the MCL if necessary to protect a designated beneficial use other than municipal or domestic use, such as agricultural use".</p>	<p>This use of MCLs is not the one for which they are intended. MCLs are meant to ensure that water served to the public meets minimum health goals.</p> <p>This approach does not account for the anti-degradation objectives of the State in the Porter-Cologne Act and in Resolution 68-16.</p> <p>This does not allow local water purveyors to ensure that the water they serve meets anything greater than regulatory minimums.</p>
<p>For groundwater reuse projects, the policy does allow the Regional Board to evaluate whether the project will change the geochemical equilibrium in the aquifer and to establish requirements to limit degradation and to prevent the project from causing violations of groundwater quality objectives.</p>	<p>The SCVWD supports this provision.</p>

Comment Letter - Proposed Water Recycling Policy
Continued:

Proposed Policy Provisions	Compatibility with Local Considerations and Regional Board Mission
<p>Water recycling irrigation projects and groundwater recharge reuse projects that comply with this policy, the Porter-Cologne Act, and the applicable Basin Plan shall be considered to have met the requirements of State Water Board Resolution 68-16.</p>	<p>This policy does not include enough consideration for local geology and hydrology to ensure that this statement is indeed true. In essence, this policy exempts projects from the need to demonstrate compliance with one of California's most fundamental environmental rules.</p>